

Docket No. 020095C1

Serial No. 10/801,279

REMARKS/ARGUMENTS

Prosecution Status

This application was originally filed with claims 1-21 on March 16, 2004 as a continuation application. (The application was later amended on March 4, 2005 to provide proper priority claims.)

An Office Action of August 11, 2004 rejected claims 1-21 for statutory double patenting of prior U.S. Patent No. 6,768,448.

The Response of October 14, 2004 *cancelled* claims 1-21 and added *new* claims 22-28.

A Final Office Action of December 2, 2004 rejected claims 22-28 as anticipated by Freathy et al. This rejection was the first time that Freathy et al. was cited against the application.

The Response of February 22, 2005 contained remarks arguing against the above rejection and requested reconsideration and withdrawal of the rejection.

A Non-Final Office Action of March 3, 2005 rejected claims 22-28 for obviousness-type double patenting over claims 1-21 of U.S. Patent No. 6,768,448.

The Response of March 4, 2005 included a terminal disclaimer to obviate the non-statutory double patenting rejection according to 37 CFR 1.321(c).

However, a Final Office Action of June 23, 2005 rejected *claims 1-21* for statutory double patenting of prior U.S. Patent No. 6,768,448; disapproved the terminal disclaimer "because there is no authorization in the application authorizing attorney for assignee to sign;" and noted that a terminal disclaimer cannot overcome a statutory double patenting rejection.

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The rejection is respectfully traversed. It is believed that the Examiner inadvertently failed to cancel claims 1-21 as requested by Applicant in the Response of October 14, 2004 and inadvertently reinstated the statutory double patenting rejection.

It is maintained that the terminal disclaimer filed on March 4, 2005 obviates the non-statutory double patenting rejection of claims 22-28 set forth by the Examiner in the Office Action of March 3, 2005.

Applicant has attached a POWER OF ATTORNEY TO PROSECUTE APPLICATION BEFORE THE USPTO to include the authorization for the attorney to sign for the terminal disclaimer.

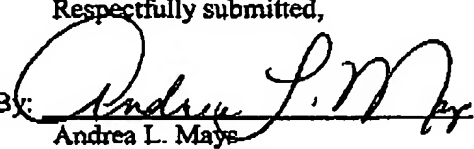
CONCLUSION

Applicants respectfully request that the Examiner reconsider the outstanding rejections and that these rejections be withdrawn. As this response does not include any amendments or require any additional searching, it is believed that continuing examination of the application is unnecessary. It is believed that a complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of the application, the Examiner is invited to telephone the undersigned at the number provided.

Applicants therefore respectfully request that a timely Notice of Allowance be issued in this case.

Dated: 8-23-05

Respectfully submitted,

By: 
Andrea L. Maya
Attorney for Applicant
Registration No. 43,721

QUALCOMM Incorporated
5775 Morehouse Drive
San Diego, California 92121-2779
Telephone: (858) 651-8546
Facsimile: (858) 658-2502